

Message Text

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ACTION EUR-12

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SUBJECT: PROPOSED U.S. LEGISLATION N CONTROL OF FOREIGN BANK
OPERATIONS IN THE UNITED STATES

REF : BONN 11824

SUMMARY: SENIOR U.S. AND GERMAN COMMERCIAL BANKERS ARE CONCERNED
THAT THE PROVISIONS OF PROPOSED U.S. LEGISLATION TO CONTROL FOREIGN
BANK OPERATIONS IN THE UNITED STATES WHICH PROHIBIT CERTAIN
NONBANK ACTIVITIES, WILL FORCE GERMAN AND OTHER EUROPEAN BANKS TO
WITHDRAW FROM THE U.S. MARKET AND WILL THEREBY LEAD TO
PRESSURE TO RETALIATE. GERMAN CONCERN CENTERS ON SECTION 8 OF
HR 13876; THERE IS ALSO SOME OBJECTION TO SOME

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EQUIVALENT TO FDIC COVERAGE TO PROTECT U.S. DEPOSITORS AND

TO MINIMUM RESERVES. GERMAN BANKERS, ON BALANCE, DO NOT EXPECT HR 13876 TO BE ENACTED THIS LEGISLATIVE SESSION, BUT ASSUME IT OR A SIMILAR BILL WILL BE INTRODUCED IN THE NEXT CONGRESS. THEY ARE UNHAPPY WITH THE EFFORTS MADE THUS FAR TO BRING THEIR CONCERNS TO U.S. ATTENTION THROUGH THE BUNDES BANK OR THE EUROPEAN BANKERS ASSOCIATION AND ARE PLANNING TO TAKE MORE DIRECT ACTION. A RELEASE BY THE GERMAN BANKERS ASSOCIATION IS THE FIRST STEP IN THIS DIRECTION. END SUMMARY.

1. IN THE PAST SEVERAL WEEKS, A NUMBER OF SENIOR OFFICERS IN U.S. AND GERMAN COMMERCIAL BANKS AT FRANKFURT, INCLUDING MEMBERS OF THE EXECUTIVE COMMITTEE OF THE THREE GROSS-BANKER, HAVE TOLD US OF THEIR CONCERN OVER PROPOSED U.S. LEGISLATION ON THE CONTROL OF FOREIGN BANK OPERATIONS IN THE UNITED STATES. THEY UNDERSTAND HR 13876, INTRODUCED MAY 18, 1976, REPRESENTS AN AGREED BILL BETWEEN THE FEDERAL RESERVE BOARD AND THOSE MEMBERS OF THE HOUSE OF REPRESENTATIVES MOST INTERESTED IN BANKING AFFAIRS, AND THAT THE FEDERAL RESERVE BILL (S. 958) AND OTHER BILLS ON FOREIGN BANKS ARE NO LONGER IN ACTIVE CONSIDERATION. THESE CONCERNS HAVE NOW BEEN AIDED BY THE GERMAN BANKERS ASSOCIATION (SEE PARA 1, REFTEL). FOLLOWING BACKGROUND MAY BE HELPFUL TO UNDERSTANDING OF GERMAN REACTION TO PROPOSED LEGISLATION.

2. IN THE CONTRAST TO EARLIER POSITION, GERMAN COMMERCIAL BANKERS ACKNOWLEDGE THAT IT IS APPROPRIATE FOR THE FEDERAL U.S. GOVERNMENT TO SEEK AUTHORITY OVER FOREIGN BANK OPERATIONS IN THE UNITED STATES, PROVIDED IT TREATS FOREIGN AND U.S. BANKS ROUGHLY THE SAME AND TAKES ACCOUNT OF FUNDAMENTAL DISTINCTIONS BETWEEN U.S. AND CONTINENTAL BANKING PRACTICES. WHILE THERE WAS GRUMBLING OVER S.958, GERMAN BANKERS SEEMED WILLING TO ACCEPT ITS TERMS AND CONDITIONS, AND THEY WERE MORE CONCERNED OVER POSSIBLE "CHRISTMASTREEING" OF THAT BILL DURING LEGISLATIVE DELIBERATIONS.

3. WHILE GERMAN BANKERS REGARD HR 13876 IN MANY RESPECTS AS IMPROVED OVER S.958, THE SECTION 8 REQUIREMENT THAT ANY FOREIGN BANK MAINTAINING A BRANCH OR AGENCY IN THE UNITED STATES WITHDRAW BY DECEMBER 31, 1985, FROM DIRECT LIMITED OFFICIAL USE

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OR INDIRECT OWNERSHIP OR CONTROL OF VOTING SHARES IN ANY NONBANK COMPANY IN THE UNITED STATES IS REGARDED AS DIAMETRICALLY OPPOSED TO CONTINENTAL BANKING PRACTICE AND A MEASURE THAT WOULD LEAD TO THE END OF MOST EUROPEAN BANK OPERATIONS IN THE UNITED STATES. THEY UNDERSTAND THAT THE FBR WOULD HAVE DISCRETIONARY AUTHORITY TO APPROVE SUCH OWNERSHIP OR CONTROL, BUT THIS AUTHORITY IS CONSIDERED INADEQUATE BECAUSE IT WOULD APPLY ONLY TO PRE-

EXISTING SITUATIONS AND THERE IS NO GUARANTEE THAT DISCRETION WOULD BE EXERCISED LIBERALLY. MOREOVER, FOREIGN BANKS WOULD, FOLLOWING ENACTMENT OF HR 13876, BE ABLE TO TAKE POSITIONS IN FIRMS INDIGENOUS TO THEIR HOME COUNTRIES ONLY AT THE RISK OF LOSING THE RIGHT TO CONTINUE BANKING OPERATIONS IN THE U.S. MARKET; THIS RISK IS REGARDED AS CERTAIN INASMUCH AS FOREIGN BANKS ARE OCCASIONALLY URGED BY GOVERNMENTS TO COME TO ASSISTANCE OF AILING LARGE FIRMS WHICH, QUITE WILL HAVE A BRANCH OR SUBSIDIARY IN THE UNITED STATES.

4. MINOR OBJECTIONS WERE ALSO RAISED WITH RESPECT TO THE NEED TO PAY SURETY BOND OR PLEDGE OF ASSETS IN LIEU OF FDIC COVERAGE AND TO MINIMIN RESERVES REQUIREMENTS WITHOUT RECEIVING BENEFITS OF FEDERAL RESERVE MEMBERSHIP, BUT GERMAN BANKERS GIVE IMPRESSIONS THAT THEY CAN LIVE WITH THESE PROVISIONS. MEMBER OF BOARD OF COMMERCBANK, HOWEVER, HAS ASKED WHETHER A "LETTER OF ASSURANCE" TO COVER U.S. DEPOSITORS WOULD SATISFY DEPOSIT INSURANCE REQUIREMENT.

5. GERMAN COMMERCIAL BANKERS HAVE TRIED TO MAKE THEIR VIEWS ON PROPOSED U.S. LEGISLATION ON FORIEGN BANKS KNOWN THROUGH TWO CHANNELS: (A) BY REPRESENTATIONS TO THE BUNDESBANK, WHICH PARTICIPATES IN THE EC AD HOC CENTRAL BANKERS COMMITTEE UNDER J.A. KIRBYSHIRE OF THE BANK OF ENGLAND, AND (B) THROUGH THE ASSOICATION OF EUROPEAN BANKERS, UNDER LESLIE O'BRIEN, FORMER GOVERNOR OF BANK OF ENGLAND. FRANKFURT COMMERCIAL BANKERS EXPRESSED GREAT UNHAPPINESS OVER BOTH APPROACHES. THEY ASSERT THAT THE BUNDESBANK HAS FAILED TO RECOGNIZE THE DANGERS INHERENT IN PROPOSED U.S. LEGISLATION AND CONSEQUENTLY HAS NOT BEEN SUFFICIENTLY FORCIBLE IN OPPOSING U.S. PLANS TO REGULATE LIMITED OFFICIAL USE

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FOREIGN BANKS.THEY ALSO FIND O'BRIEN GROUP DISAPPOINTING INASMUCH AS IT TIES THEM TO COMMON REPRESENTATIONS WITH BANKERS FROM COUNTRIES WHICH TAKE ILLIBERAL ATTITUDES TOWARD THE ESTABLISHMENT OF U.S. BANKS. (SWEDEN AND SWITZERLAND ARE MENTIONED AS EXAMPLES.)

6. ON BALANCE, FRANKFURT BANKERS DO NOT THINK THE PROPOSED LEGISLATION WILL PASS THIS CONGRESS, BUT THEY EXPECT IT TO BE REINTRODUCED IN NEXT AND ARE STEPPING UP THEIR OPPOSITION. THE RELEASE BY THE GERMAN BANKERS ASSOCIATION IS THE FIRST SHOT IN THIS CAMPAIGN. GERMAN BANKS ALSO PLAN TO BRING PRESSURE ON THEIR U.S. BANKING CONTACTS, CONCEN-TRATING ON THE NEW YORK CLEARING HOUSE BANKS, THE TWO LARGE CHICAGO BANKS, AND THE BANK OF AMERICA. THEY ARE ALSO CONSIDERING TESTIFYING BEFORE CONGRESSIONAL COMMITTEES

AS MEANS OF PUBLICIZING LIBERAL GERMAN ATTITUDE TOWARD
U.S. BANK OPERATIONS IN THIS COUNTRY.

7. GERMAN BANKERS ASSOCIATION RELEASE INDICATED POSSIBILITY
OF RETALIATION IF HR 13876 IS ENACTED. PRIVATELY, FRANK-
FURT BANKERS DOUBT THAT GERMAN FEDERAL GOVERNMENT OR BUNDES-
BANK WOULD BE WILLING TO ADOPT RETALIATORY
MEASURES, NOR WOULD MOST FARSIGHTED GERMAN COMMERCIAL
BANKERS RECOMMEND SUCH A COURSE. ON OTHER HAND, THEY SAY
THAT SOME EUROPEAN COMMERCIAL BANKERS (READ FRANCE, SCANDI-
NAVIA, AND SWITZERLAND) WOULD NOT BE OVERLY DISAPPOINTED
IF HR 13876 SHOULD BE ENACTED SINCE IT WOULD GIVE THEM A
BASIS FOR DEMANDING TIGHTER CONTROLS ON U.S. BANKS IN
THEIR COUNTRIES. DURING THE PAST MONTH, SEVERAL VISITING
U.S. BANKERS (FOR EXAMPLE, GEORGE CONSTANZO OF CITIBANK,
WILLIAM EARTHMANN AND DEWEY DAANE OF TENNESSEE VALLEY
BANCROP, AND MARTIN MILER OF HIBERNIA NATIONAL BANK)
HAVE EXPRESSED SIMILAR VIEWS TO US.LEHMANN

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